



DOI: <https://doi.org/10.38035/rrj.v8i1>
<https://creativecommons.org/licenses/by/4.0/>

Legal Certainty In The Application of Sanctions for Contempt of Court in Criminal Evidence in Indonesia

Yohana Alfine Fadillah¹, Dyah Ayu Mustikasari², Dominikus Rato³, Y.A. Triana Ohoiwutun⁴

¹ Ministry of Finance of the Republic of Indonesia

240720101019@mail.unej.ac.id

² Indonesian Republic Police,

240720101010@mail.unej.ac.id

³ Lecture of Master of Law, Faculty of Law, University of Jember, Jember, Indonesia,

dominikusrato@gmail.com

⁴ Lecture of Master of Law, Faculty of Law, University of Jember, Jember, Indonesia,

[trianaohoiwutun@unej.ac.id](mailto: trianaohoiwutun@unej.ac.id)

Corresponding Author: 240720101019@mail.unej.ac.id¹

Abstract: The legal issues related to insults by state officials against judicial institutions highlight two important aspects. First, the application of sanctions for this action raises questions about legal certainty, because it can damage the integrity of the judicial institution and reduce public trust. Second, there are challenges in proving elements of insult that are often subjective, especially when state officials use the right to freedom of speech as a defense. The complex process of proof requires strong evidence, and a balance between protecting the honor of the judiciary. This study discusses the application of criminal evidence related to insults by state officials against judicial institutions in the context of legal certainty. Based on Article 240 of the Criminal Code which regulates insults against state institutions, including the judiciary, this study highlights the uncertainty in the application of sanctions due to the ambiguous definition of insult and the complaint procedure that depends on the party who feels aggrieved. Gustav Radbruch's legal approach to legal certainty is raised to explain the importance of consistency and clarity of law in these cases. Inconsistent law enforcement can lead to injustice, especially when state officials are protected from criticism under the pretext of insult, which ultimately undermines public trust in the judicial system.

Keywords: Legal Certainty, Insults to the Judicial Institution, Criminal Law Evidence

INTRODUCTION

The judiciary is one of the fundamental institutions in the state system that has a role to uphold the law and justice in society. In the concept of a state of law (*rechtsstaat*), the judiciary functions as the main pillar to maintain the supremacy of law and ensure that every citizen or party involved in a legal dispute receives fair and transparent legal protection (Fransiska Avianti, 2008). The judiciary has two main functions, namely enforcing the law,

which is tasked with deciding cases based on applicable legal regulations. Judges as part of the judiciary have an obligation to apply the law fairly in every decision. Second, Protecting Individual Rights: The judiciary functions to protect the rights of citizens guaranteed by law, especially when there is an alleged violation of the law. This includes providing fair decisions in civil, criminal, and state administrative disputes (Fransiska Avianti, 2008). The principle of judicial independence is a vital element in maintaining justice. The judiciary must be free from intervention or pressure from the executive, legislative, or interested external parties. This independence aims to enable judges to carry out their duties objectively and only based on applicable laws. Judicial institutions usually consist of various levels of courts that handle cases according to jurisdiction and type of case (Fransiska Avianti, 2008). In Indonesia, for example, the structure of the judicial institution includes the Supreme Court, Constitutional Court, District Court, High Court, Special Court. The judicial institution is led by a judge as a key actor in the judicial institution. The judge acts as an independent mediator, authorized to interpret and apply the law to the cases submitted. The judge also has the authority to assess evidence and make valid decisions based on laws and regulations. However, even so, the judicial institution has the potential to become the object of insults, especially those carried out by State Officials. State officials are individuals who hold positions in the government structure and have certain authorities and responsibilities in accordance with applicable laws and regulations. State officials are tasked with carrying out government functions in order to achieve state goals and serve the public interest (Muhadar & Husni Thamrin, 2009). The category of State Officials includes the President and Vice President, Leaders and Members of High State Institutions, namely the People's Consultative Assembly (MPR), People's Representative Council (DPR), Regional Representative Council (DPD), Audit Board (BPK), Supreme Court (MA), Constitutional Court (MK), Judicial Commission (KY), Ministers and Ministerial-level Officials, Governors and Deputy Governors, Regents/Mayors and their Deputies: Heads and deputy heads of regions at the provincial and district/city levels. Commander of the Indonesian National Armed Forces (TNI) and Chief of the Indonesian National Police (Kapolri) or Other Officials Determined by Law including leaders of independent institutions such as the Corruption Eradication Commission (KPK), General Election Commission (KPU), and others.

State officials play a strategic role in the administration of the state and public services. They are expected to carry out their duties professionally, ethically, and in accordance with the law. Insults to the judicial institution by state officials not only violate the ethics of office but also the law, which can have a negative impact on legal stability and public trust (Muhadar & Husni Thamrin, 2009). Therefore, it is important for state officials to always maintain their attitudes and actions in line with the principles of the rule of law and democracy. However, in reality, state officials actually commit legal acts of insulting the judicial institution.

The application of criminal evidence for acts of insult by state officials against the judicial institution highlights the important role of the legal process in maintaining the integrity and authority of the judicial institution. The judicial institution is one of the main pillars because it functions to enforce the law fairly and independently. Therefore, insulting this institution is not only considered an act that degrades the dignity of the judiciary, but also a threat to the authority of the law and the principle of the rule of law (Sutanto Nugroho, et al., 2017).

Based on the description above, legal problems arise, namely, first, the application of sanctions for acts of insult by state officials against judicial institutions raises questions about legal certainty. Given that the judicial institution has a very important role in upholding legal certainty in a country. Therefore, the integrity and authority of this institution must be maintained. When a state official commits an insult against a judicial institution, this can reduce public trust in the judicial system, and cause legal unrest. Insults against the judicial

institution not only damage the reputation of the judiciary as an independent institution, but also have the potential to disrupt the basic principles of the rule of law, where every government action and policy must be subject to applicable legal rules (Sutanto Nugroho, et al., 2017). In this context, the application of sanctions against perpetrators of insults is crucial to ensure that violations of the dignity of the judiciary are not taken lightly and do not result in greater damage to the legal order. Second, the problem of how criminal law can effectively prove the elements of insult against the judicial institution carried out by state officials. Insults against the judicial institution are often subjective and require careful assessment to determine whether the act truly meets the elements of a crime. In addition, state officials often use the right to freedom of opinion or freedom of expression as a defense, which can complicate the process of proof. From a legal perspective, the question that arises is whether the available evidence, such as witness statements, documents, or digital evidence, is sufficient and reliable in proving this act of insult (Sutanto Nugroho, et al., 2017). In addition, another challenge faced is how to maintain a balance between protecting the honor of the judicial institution and maintaining freedom of speech, especially when those involved are state officials who may criticize the judiciary in their official capacity.

METHOD

The normative legal research method is an approach used in legal studies that focuses on the analysis of legal norms, laws and regulations, and applicable legal principles through steps such as literature studies of written legal sources, normative analysis of relevant legal provisions, application of appropriate legal theories, comparison of law with other countries' legal systems if necessary, and preparation of conclusions and recommendations for improving legal policy, with the hope of producing a deep understanding of the implications of legal norms on legal practices and justice in society.

RESULTS AND DISCUSSION

Legal Certainty of the Application of Sanctions for Insulting Acts by State Officials Against Judicial Institutions

Judicial institutions must be free from pressure or intervention from the executive, legislative, or any party, including state officials. When there is insult from a state official, this can be interpreted as a form of interference or attack on the authority of the institution. This is contrary to the principle of judicial independence which requires the judiciary to operate without external influence (Rhivent Marchel Michael Samatara, 2017). The act of insult by a state official against a judicial institution can be seen as institutional harassment that not only weakens the authority of the court, but also creates distrust in the legal system. This leads to the erosion of public trust that judicial decisions can be carried out fairly without influence from state officials. In the concept of legal certainty, court decisions must be recognized and respected by all parties, including state officials. Insult by a state official can be seen as an attempt to oppose or belittle a court decision. This is contrary to the principle of the supremacy of law which requires all citizens, including government officials, to submit to legitimate legal decisions. If state officials, who have the responsibility to uphold the law and justice, actually insult the judicial institution, this can cause a crisis of public trust in the legal system as a whole. The public may feel that the law is only a tool of power, not a means to uphold objective justice (Rhivent Marchel Michael Samatara, 2017).

Insults to the judiciary by state officials are not only an ethical issue, but can also be a violation of the law. There are laws in various jurisdictions that regulate contempt of court. In Indonesia, state officials who commit such acts can be faced with criminal sanctions related to insults or defamation of state institutions (Rhivent Marchel Michael Samatara, 2017). Insults committed by state officials can interfere with the function of the judiciary in resolving legal disputes fairly. These acts of insult can create an atmosphere of intimidation

that can affect the independence of judges in carrying out their duties, especially in cases involving the interests of the state or high-ranking officials.

The regulation of acts of insulting the judiciary is regulated in the new National Criminal Code (KUHP), namely through Law Number 1 of 2023, namely Article 240 of the National Criminal Code regulating the criminal act of insulting the government or state institutions. In this context, anyone who commits verbal or written insults in public against the government or state institutions can be subject to criminal sanctions, namely imprisonment for a maximum of 1 year and 6 months or a maximum fine of category II. If the insult causes unrest in society, the prison sentence can be increased to a maximum of 3 years or a maximum fine of category IV. Criminal acts of insult can only be prosecuted based on a complaint from the insulted party. Legal certainty Article 240 emphasizes that acts of insult can only be prosecuted based on a complaint from the insulted party. This ensures that not just any insult can be prosecuted legally, thus providing certainty for state officials in taking action without worrying about baseless lawsuits. However, this also shows the importance of correct procedures in prosecution, so that parties who feel aggrieved can file complaints in accordance with legal provisions. The application of criminal sanctions in the form of imprisonment and fines, as a consequence of acts of insult. This serves as a deterrent (prevention) for state officials not to take actions that can harm the judicial institution and public trust in it (Syarif Nurhidayat, 2021). Legal certainty in the application of sanctions for insults by state officials is very important to maintain the integrity and dignity of the judicial institution. If state officials are free to commit insults without clear legal consequences, this can damage public trust in the legal system and judicial institutions. By implementing sanctions firmly, it is hoped that an attitude of respect for the judicial institution will be formed (Syarif Nurhidayat, 2021).

The problem of the provisions of Article 240 of the National Criminal Code which does not provide legal certainty in the application of sanctions for acts of insult by state officials against judicial institutions because there is still ambiguity in Article 240 of the National Criminal Code regulating acts of insult against the government or state institutions. However, the ambiguity in the definition of what is considered "insult" can cause difficulties in the application of the law. Without a clear explanation of the limitations and characteristics of acts of insult, there can be differences in interpretation between law enforcers and the courts. This has the potential to cause legal uncertainty for state officials and the public. The Problem of Limitations in the Prosecution Procedure in Article 240 states that criminal acts of insult can only be prosecuted based on a complaint from the insulted party. This provision limits the scope of prosecution, because not all acts of insult are faced with a proactive attitude from law enforcement. If the insulted party does not file a complaint, then the act of insult cannot be processed further, which can create a situation where the insult is not followed up. further problems with dependence on Complaints. The provision stating that criminal acts can only be prosecuted based on complaints emphasizes the reliance on individual initiative (Amiruddin, 2016). This can cause state officials who commit insults to feel more "free" because there is a possibility that no official complaint will be filed. This uncertainty has the potential to have negative impacts, such as an increase in the number of insults that are not followed up, which ultimately harms the image of the judicial institution (Amiruddin, 2016). Article 240 paragraph (1) of the National Criminal Code states that insults against the government or state institutions are carried out by someone in public, either verbally or in writing. This action can be subject to sanctions in the form of a maximum imprisonment of 1 year and 6 months. The maximum fine is category II. This category II fine in the National Criminal Code ranges from IDR 10,000,000 to IDR 50,000,000. If this criminal act of insult causes unrest in the community, then the sanctions imposed are heavier, namely a maximum imprisonment of 3 years and a maximum fine of category IV. Category IV fines can reach IDR 200,000,000 to IDR 500,000,000. This crime

can only be prosecuted based on a complaint from the party who feels insulted. The government leader or the leader of a state institution who feels insulted. This makes the crime of insulting a state institution a complaint offense, meaning that the legal process can only take place if there is a report from the injured party.

Article 241 paragraph (1) of the National Criminal Code stipulates that the dissemination of insults against the government or state institutions can also be subject to criminal sanctions, if someone broadcasts, displays, attaches, plays, or disseminates through information technology (such as social media or the internet) an insult that is visible or audible to the public. The purpose of this action is so that the contents of the insult are known to the public. The sanction imposed for this action is a maximum of 3 years in prison.

The application of Article 241 of the Criminal Code above still creates legal uncertainty because it still has the potential to open up opportunities for abuse of the law, where state officials can use this provision to curb criticism or opposing opinions. This can create an atmosphere where legitimate criticism of the judiciary is considered an insult, thus reducing freedom of speech and creating legal uncertainty for the community (Artaji, et al., 2018). Legal uncertainty in the application of Article 241 can interfere with the independence of the judiciary. If state officials feel entitled to insult or demean the judiciary without clear consequences, this can damage the image of the institution and reduce public trust in the justice system. Based on the above problems, if associated with legal certainty, according to Radbruch, it means that the law must be predictable, clear, and applied consistently. The community must be able to know and understand the consequences of each of their actions, so that the law creates stability and clarity. With legal certainty, individuals and entities, including state officials, will know the limits of their actions, as well as the penalties they may receive if they violate them (Artaji, et al., 2018).

Permasalahan dalam Penerapan Sanksi Penghinaan oleh Pejabat Negara terhadap Lembaga Peradilan dalam praktiknya, penerapan sanksi terhadap penghinaan yang dilakukan oleh pejabat negara terhadap lembaga peradilan sering kali tidak memberikan kepastian hukum, sebagaimana yang dijelaskan oleh teori Radbruch. Penafsiran Hukum. Pasal-pasal dalam KUHP Nasional terkait penghinaan (Pasal 240, 241, 279, dan 280) sering kali dapat diinterpretasikan secara subjektif oleh penegak hukum atau hakim. Apa yang dianggap sebagai penghinaan oleh satu hakim, mungkin dianggap sebagai kritik yang sah oleh hakim lain. Ketidakpastian dalam penafsiran ini menyebabkan penerapan hukum yang berbeda-beda, mengakibatkan ketidakpastian hukum dalam penerapan sanksi terhadap pejabat negara yang melakukan penghinaan (Artaji, et al., 2018).

Insults are often subjective. What is considered an insult by a judicial official may be a reasonable criticism from the perspective of the state official who issued the statement. This creates uncertainty in determining the boundaries between legitimate criticism and unlawful insults. Several articles on insults in the National Criminal Code (such as Articles 240 and 241) stipulate that insults against a judicial institution are complaint offenses, which can only be followed up if there is a complaint from the institution that feels insulted. The nature of this complaint offense makes the application of the law very dependent on the wishes of the party who feels aggrieved, not on objective legal rules (Artaji, et al., 2018). This can create inconsistency in law enforcement because not all cases of insults will be followed up. The regulation of insults against judicial institutions is also regulated in the provisions of Article 279 of the National Criminal Code which does not provide legal certainty in the application of sanctions for insults by state officials against judicial institutions. The Unclear Criteria for "Noisy" in Article 279 of the National Criminal Code regulates the prohibition of making noise near the courtroom or in the court session itself. However, the term "noisy" is not clearly defined in the law. This ambiguity can result in subjective law enforcement, where law enforcers have different interpretations of what is meant by "noisy." As a result, actions

that do not actually disrupt the judicial process can be considered violations, creating uncertainty for the community (Mulyadi L., & Suhariyanto B., 2016).

The application of the act of insulting the judicial institution in Article 279 of the National Criminal Code in order to prosecute individuals who cause a disturbance, the judge or officer must first give three warnings. This process is not always effective, especially in emotional situations in the courtroom. If the party causing the disturbance does not leave after three warnings, law enforcers are required to arrest the individual, which can cause further complications in the application of the law, including the possibility of conflict between law enforcers and the offender.

The application of Article 279 also relies heavily on the judge's decision to give a warning. This means that the continuation of the judicial process and law enforcement can depend on the individual judge's discretion, which can vary. This dependency poses the risk that law enforcement can be inconsistent, which in turn creates uncertainty for the parties involved in the trial. The ambiguity in the application of Article 279 of the National Criminal Code can open up the potential for abuse by certain parties, including state officials, who may use this provision to curb criticism or opposing opinions. If legitimate criticism of the judicial process is seen as "making a scene," the regulation of the provisions of Article 280 of the National Criminal Code creates ambiguity in the terms in Article 280 which can lead to subjectivity in the application of sanctions. What is considered "disrespectful behavior" by one judge may not be considered so by another judge. This has the potential to create injustice in law enforcement, where one individual may be sanctioned, while another individual with similar behavior is not subject to the same sanctions. Article 280 also stipulates that criminal acts of disrespect towards law enforcement officers can only be prosecuted based on a complaint. This creates a process that relies on the initiative of certain parties (i.e., law enforcement officers) to file a complaint (Mulyadi L., & Suhariyanto B., 2016). In practice, this reliance on complaints can lead to a lack of law enforcement if the authorities do not take steps to report violations.

Radbruch emphasized the importance of clear and easy-to-understand laws. In the case of insults, the National Criminal Code has not provided clear criteria on what exactly is considered an insult to the judiciary. This creates difficulties in applying sanctions consistently (Muladi, 1995). As a result, there is uncertainty about when the actions of state officials can be considered an insult that can be subject to legal sanctions. From Radbruch's perspective, this legal uncertainty disrupts the stability and public trust in the legal system (Muladi, 1995). If the application of sanctions for acts of insult by state officials to the judiciary is inconsistent and unclear, the public will not know for sure the limits of actions that are acceptable or unlawful. This condition is contrary to the principle of legal certainty emphasized by Radbruch, namely that the law must be predictable and applied equally to everyone, including state officials. In addition, this legal uncertainty also has the potential to damage the sense of justice. If state officials are not punished consistently or are considered to have "immunity" against insults to the judiciary, while ordinary citizens can be sanctioned, then justice and a sense of equality before the law will be threatened. The law must be fair and provide equal treatment to all parties without exception.

Application of Criminal Evidence Regarding Insults by State Officials Against Judicial Institutions

Criminal evidence in the context of insulting acts by state officials against judicial institutions involves the process of proving that the actions taken by the state officials fulfill the elements of a criminal act in accordance with applicable legal provisions, as regulated in the National Criminal Code (Romli Atmasasmita, 2010). This insult can be in the form of statements, actions, or attitudes that are considered to degrade the dignity or integrity of the judicial institution. The act of insulting a judicial institution by state officials is regulated in

several articles of the National Criminal Code, such as Articles 240, 241, 280, and 281. Each article provides a different definition and sanctions depending on the nature and impact of the insulting act committed. Elements of Proof In the application of criminal evidence, there are several elements that must be proven to state that an insult has occurred, namely the Subject relates to the identification of the state official who committed the insult. This includes ensuring that the accused person does have the status of a state official (Romli Atmasasmita, 2010). The object relates to the determination of the judicial institution that was insulted, as well as the identification of the form of insult committed, whether it was verbal, written, or other actions. Intention relates to proving the intention or purpose behind the act of insult. Whether the state official had the intention to degrade or damage the integrity of the judicial institution and Assessing the impact of the act of insult on the judicial institution, whether it caused harm, disruption to the judicial process, or damaged public trust in the institution. The application of criminal evidence in cases of insult by state officials contains a number of complex challenges, especially because of the subjective nature of the insult itself. Insults often depend on the context and individual interpretation. What one person considers constructive criticism or an expression of opinion, may be considered by another person as an insult (Novi E. Baskoro, 2018). such as the statement of Mahfud MD, the Coordinating Minister for Political, Legal, and Security Affairs (Menko Polhukam), touching on his concerns regarding the legal handling of the Ferdy Sambo case, especially regarding the death of Brigadier J. Mahfud MD expressed his doubts about the initial narrative from the police, which stated that Brigadier J was killed in a shootout after a sexual harassment incident. According to him, there was an inconsistency in the explanation of the cause and effect presented, and the scenario did not make sense based on the existing facts. Mahfud MD stated that the case could have been closed quietly if it had not received public attention, emphasizing the complexity of the case involving alleged abuse and premeditated murder. He mentioned that, without public pressure, the case could have been stopped, especially since one of the suspects had died. In addition, Mahfud claimed that Sambo had great influence within the National Police Headquarters, creating a kind of internal power structure that he called a "kingdom within a kingdom", referring to the powerful network that allegedly protected Sambo.

Statement by Deputy Chairman of Commission III of the Indonesian House of Representatives, Ahmad Sahroni, who considered the decision to be a bad precedent for law enforcement in Indonesia. Sahroni accused there of fraud behind the decision of the Surabaya District Court panel of judges. In an audience between Commission III of the DPR with the victim's family, Sahroni revealed the oddity of the panel of judges' statement that the death of the victim, Dini Sera Afrianti, was caused by alcohol, not abuse. The statement actually did not need to be made because it contained elements of leading public opinion which would have an impact on public distrust of the judicial institution.

Proving the elements of criminal insults requires clear evidence of the perpetrator's intention. In many cases, intent can be difficult to prove, especially when certain statements or actions can be interpreted in various ways. If a state official makes a statement that is considered to be derogatory of the judiciary, is his intention to insult or simply to express dissatisfaction? Without strong evidence of the perpetrator's intention, the proof process becomes complicated. In addition to proving intent, it is also necessary to show the impact of the insulting act. Does the statement or action of the state official actually cause reputational damage to the judiciary, or is the impact temporary and insignificant? Proving this impact is a challenge in itself because it is often abstract and difficult to measure (Novi E. Baskoro, 2018). The legal context also requires a balance between the right to freedom of expression and protection of the judiciary. If every criticism of the judiciary is considered an insult, then this can create an atmosphere where criticism becomes very limited, potentially disrupting transparency and accountability in government. Therefore, the court must carefully consider

the context and substance of the statement in question. Therefore, insults are subjective, law enforcement can be at risk of falling into confusion. Courts must strive to understand the social and political context when deciding whether an act or statement meets the criteria for defamation.

The fact that defamation can only be prosecuted through a complaint from a party who feels insulted, such as a judicial official, has several significant implications, both in terms of access to justice and evidence in court. The nature of a Complaint Offense as a type of criminal act that can only be prosecuted if there is a complaint from a party who feels aggrieved (Puslitbang MK Supreme, 2002). In the context of defamation of the judiciary, this means that an official or judicial institution must actively file a complaint so that the defamation can be prosecuted. This creates quite strict limitations in law enforcement, because not all defamation will be automatically processed without a complaint. The nature of a complaint offense, the party who wants to file a complaint must be able to collect strong evidence to support their allegations. The application of criminal evidence against defamation committed by state officials against judicial institutions faces various complex challenges to assess whether a statement is classified as defamation is often subjective. This can lead to uncertainty in the application of the law, where actions that are considered legitimate by one party may be considered defamation by another party. (Puslitbang Konstitusi Supreme Court, 2002). On the other hand, the judicial institution needs to be protected from acts of insult that can damage its integrity and credibility. Acts of insult can disrupt the judicial process and reduce public trust in the legal system. Radbruch argues that legal certainty is an important component that must be present in every legal system, so that citizens can clearly know what is allowed and prohibited. According to him, the law must be enforced clearly and consistently in order to fulfill its social function in regulating community life (Jimly Asshiddiqie, 1997). Without legal certainty, legal norms will lose legitimacy, because the law becomes unpredictable and unfair. Problems in the Application of Criminal Evidence of Insult by State Officials In the context of insult by state officials against the judicial institution, the application of criminal evidence often faces the problem of legal uncertainty.

Insults are often subjective, meaning that what is considered an insult by one party may be considered legitimate criticism by another party. This causes uncertainty in the application of criminal evidence, because there is no clear boundary between legally punishable insults and legitimate criticism of the judicial institution. According to Radbruch, unclear laws in defining what can be considered an insult will disrupt legal certainty. Based on the National Criminal Code (Articles 240 and 241), insults against the judicial institution are often categorized as complaint-based offenses, which can only be processed if there is a complaint from the party who feels insulted, in this case the head of the judicial institution. The nature of this complaint-based offense creates uncertainty in law enforcement, because not all insults will be processed consistently. State officials who commit insults may not always be prosecuted, depending on whether the head of the judicial institution is willing to file a complaint. This is contrary to the principle of legal certainty promoted by Radbruch, where the law must be applied consistently and equally. Evidence in cases of insults by state officials often does not have a clear standard. The court may interpret evidence in different ways, depending on the context or the views of the judges involved. This ambiguity in the standard of proof creates legal uncertainty, as the outcome of the court process can vary in similar cases. In Radbruch's theory, legal certainty demands that legal norms are clearly understood and applied uniformly, so that the public can know for sure what actions are unlawful (Oemar Seno Adji, 2007).

The act of insulting a state official against a judicial institution has serious implications for public trust in the justice system. When a state official insults a judicial institution, this can trigger negative perceptions among the public regarding the integrity and credibility of the institution. Insults coming from authorities can be seen as a signal that the judicial

institution is not respected, which in turn can affect how the public views it (Oemar Seno Adji, 2007). Public trust depends not only on the legal actions taken, but also on the image and reputation of the judicial institution. If the public feels that the judicial institution cannot function effectively or is respected, they may lose trust in the legal process as a whole.

Insults are often subjective and difficult to prove, because what is considered an insult by one party may not be considered so by another party. These difficulties can lead to frustration in law enforcement efforts and reduce public confidence that appropriate legal action will be taken (Oemar Seno Adji, 2007). If court decisions on defamation cases are inconsistent, this can create confusion in the community about how the law is applied. This uncertainty can lead to a skeptical view of the justice system, where people feel that the law may not apply fairly to all parties. When state officials in powerful positions commit defamation, this can create the impression that the judiciary is unable to protect itself. This can trigger a crisis of legitimacy, where the public begins to doubt whether the judiciary is truly independent and reliable.

CONCLUSION

The application of sanctions for state officials who insult judicial institutions must consider the principle of legal certainty in order to maintain public trust in the judicial system. According to the concept of legal certainty, everyone, including state officials, must be subject to applicable laws. In Indonesia, acts of insulting state institutions, including the judiciary, are regulated in Article 240 of the National Criminal Code which provides criminal sanctions for perpetrators of insults. However, there are several legal uncertainties in the application of these sanctions, such as the unclear definition of "insult" and the reliance on complaints from parties who feel insulted. This leads to inconsistent application of the law, especially due to the subjective nature of assessing whether an action constitutes an insult or legitimate criticism. This uncertainty also appears in Article 241 of the National Criminal Code, which has the potential to open loopholes for state officials to curb criticism.

The application of criminal evidence in cases of insult by state officials against judicial institutions is a complicated process, because insults are subjective and often related to personal assessments of the intent and impact of the action. State officials who commit insults against judicial institutions can be subject to sanctions under Articles 240 and 241 of the National Criminal Code. In its application, the proof process often faces challenges due to the subjective nature of the insult itself. An official's statement can be considered a criticism by one party, but considered an insult by another party. In addition, the perpetrator's intention and the impact on the reputation of the judicial institution are also important elements that must be proven. The case of Mahfud MD regarding his criticism of the narrative of the Ferdy Sambo case shows how statements by state officials can influence public opinion, as well as create uncertainty in the law if not clearly regulated.

REFERENCE

- Amiruddin, "Delik Penghinaan Terhadap Pengadilan (Contempt of Court) dalam Perkara Pidana di Indonesia," *Jurnal Ilmu Hukum* 3, no. 3 (2016): 50-65.
- Artaji, et al., "Eksistensi Pranata Contempt of Court dalam Peradilan di Indonesia," *Jurnal Pengabdian Kepada Masyarakat* 8, no. 2 (2018): 140-155.
- Jimly Asshiddiqie, "Pembaharuan Hukum Pidana Indonesia," *Angkasa* 5, no. 3 (1997): 35-49. h
- Muhadar & Husni Thamrin, *Perlindungan Saksi & Korban Dalam Sistem Peradilan Pidana* (Surabaya: Putra Media Nusantara, 2009).
- Muladi, "Kapita Selekta Sistem Peradilan Pidana," *Badan Penerbit Univ. Diponegoro* 4, no. 1 (1995): 78-85.

- Mulyadi L., & Suhariyanto B., "Contempt of Court: Urgensi, Norma, Praktik, Gagasan dan Masalahnya," *Alumni Bandung* 6, no. 4 (2016): 123-137.
- Novi E. Baskoro, "Sistem Peradilan Pidana dan Pembaharuan Hukum Pidana," *Universitas Islam Negeri Sunan Gunung Djati Bandung* 3, no. 1 (2018): 22-36.
- Oemar Seno Adji, "Peradilan Bebas & Contempt of Court," *Diadit Media* 2, no. 2 (2007): 72-90,
- Puslitbang Mahkamah Agung, "Naskah Akademik Contempt of Court," *Puslitbang MA* 1, no. 1 (2002): 10-20.
- Rhivent Marchel Michael Samatara, "Tindak Pidana Terhadap Lembaga Peradilan (Contempt of Court) Menurut Hukum Positif Indonesia," *Lex Privatum* 7, no. 2 (2017): 195-208.
- Romli Atmasasmita, "Sistem Peradilan Pidana Kontemporer," *Kencana* 5, no. 2 (2010): 45-63.
- Sutanto Nugroho, et al., "Pengaturan Tindak Pidana Contempt of Court Berdasarkan Sistem Hukum Pidana Indonesia," *Diponegoro Law Journal* 6, no. 2 (2017): 120-133.
- Syarif Nurhidayat, "Pengaturan dan Ruang Lingkup Contempt of Court di Indonesia," *Jurnal Ius Constituendum* 6, no. 1 (2021): 81-94.